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BY CM/ECF AND HAND DELIVERY

The Honorable Jennifer L. Hall
United States District Judge
for the District of Delaware
844 North King Street
Wilmington, DE 19801

Re: **Ferring Pharmaceuticals Inc. et al v. Finch Therapeutics Group, Inc. et al,
C.A. No. 21-1694-JLH**

I write in response to Ferring's letter to the Court today concerning exhibits to be used with Dr. Borody. We believe that Ferring's letter omits some information the Court requested and provided Ferring with an insert containing Finch's position. Ferring declined to include it.

In light of Finch's Motion in Limine No. 5, we understood the Court to be interested in any assertion by Ferring that Finch had the late-produced documents prior to June 5. Two of the late-produced documents (TX-3453 and TX-3581) remain on Ferring's list. These are the handwritten notes that were referenced at the pre-trial conference. Finch advised Ferring that it has no recollection of seeing these documents prior to June 5 and has no reason to believe it did. Finch asked Ferring to confirm that it was not making a contrary assertion. While Ferring has not answered the question directly, by filing the letter without such an assertion, we assume that Ferring is not contending that Finch had TX-3453 or TX-3581 prior to June 5.

Finch believes that TX-4239, TX-4247, TX-4250, and TX-4251 are subject to the portion of Finch's Motion in Limine directed to irrelevant documents. These post-litigation communications (in May and June 2023) between Dr. Borody and Finch/Kirkland & Ellis are irrelevant and unfairly prejudicial.

Finch notes that the breadth of documents listed raises further concerns about the potential scope of Dr. Borody's testimony (and the scope of Ferring's interactions with him) should he come to trial. Finch will raise those issues with the Court if appropriate if Ferring confirms that Dr. Borody is coming to trial.

Finally, as noted in the motion in limine and at the pre-trial conference, Finch has objected to many of the exhibits on Ferring's list on other grounds (including hearsay) and will raise those objections with the Court at the appropriate time unless the Court would like a more detailed explanation of Finch's objections at this time.

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The Honorable Jennifer L. Hall

July 26, 2024

Page 2

We remain available at the Court's convenience if Your Honor has any questions.

Respectfully,

/s/ Kelly E. Farnan

Kelly E. Farnan (#4395)

cc: All Counsel of Record (By CM/ECF)